

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

JYOTI GAUTAM MURRAY and ALLEN
PERRY, on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

METRO FIBERNET, LLC d/b/a METRONET,

Defendant.

No. 3:24-cv-00131-MPB-CSW

**DEFENDANT’S MOTION TO STAY DISCOVERY
PENDING RULING ON MOTION TO DISMISS**

Pursuant to Rule 26(b) of the Federal Rules of Civil Procedure, Defendant Metro Fibernet, LLC d/b/a Metronet (“Metronet”) respectfully moves this Court for an Order staying discovery until 28 days after resolution of Metronet’s Motion to Dismiss (assuming any of Plaintiffs’ claims survive the Motion to Dismiss). Alternatively, if this Court denies this Motion to Stay Discovery, Metronet respectfully requests that this Court allow Metronet until 28 days after such denial to respond to Plaintiffs’ written discovery. In support of this Motion, Metronet states as follows:

1. Plaintiffs brought this putative class action against Metronet, alleging that each signed up for Metronet’s internet service based on pricing representations in “advertising and marketing materials” that failed to disclose that Metronet charged a monthly Tech Assure Fee (“TAF”). (Cmplt Dkt No. 1 ¶¶ 30, 32, 39, 41.)

2. Metronet filed its Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6) on September 23, 2024. (Dkt No. 13.) Plaintiffs filed their response on October 29, 2024. (Dkt No. 21.) Metronet filed its reply on November 11, 2024. (Dkt No. 24.) Plaintiffs served their first written discovery on Metronet on November 6, 2024. (*See* Ex. 1, Plaintiffs' First Set of

Interrogatories; Ex. 2, Plaintiffs' First Set of Requests for Production.) Metronet's responses currently are due on December 6, 2024.

3. For the reasons stated in greater detail in Metronet's Memorandum of Law in Support, Metronet's Motion to Stay should be granted because (1) Plaintiffs would not be unduly prejudiced by a stay; (2) a stay would simplify the issues in question; (3) a stay would reduce the burden of litigation on the parties; and (4) allowing discovery while Metronet's Motion to Dismiss is pending would undermine the purposes of Federal Rule of Civil Procedure 9(b).

WHEREFORE, Metronet respectfully requests that this Court (i) stay all discovery until 28 days after the Court rules on the Motion to Dismiss; or, in the alternative (ii) extend the date to respond to the pending discovery until 28 days after this Court denies this Motion to Stay.

Dated: November 21, 2024

Respectfully submitted,

By: s/ Scott T. Schutte

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CERTIFICATE OF SERVICE

I, Scott T. Schutte, an attorney, certify that I filed the foregoing Motion using the Court's ECF system, which will cause a true and correct copy of the same to be served electronically on all ECF-registered counsel of record on this 21st day of November, 2024.

s/ Scott T. Schutte

Scott T. Schutte